



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, D.C. 20555-0001

May 17, 2016

Mr. Clancy Tenley
Assistant Director
Partnership, Land Revitalization
and Cleanup Branch
U.S. Environmental Protection Agency,
Region IX
San Francisco, CA 94105

**SUBJECT: RESPONSE TO REQUEST FOR TECHNICAL ASSISTANCE AND
REGULATORY EXPERTISE ON THE DESIGN REVIEW TEAM FOR
CONSTRUCTION OF REPOSITORY FOR NORTHEAST CHURCH ROCK MINE
WASTE ON THE UNITED NUCLEAR CORPORATION MILL SITE, DATED
APRIL 9, 2015**

Dear Mr. Tenley:

I am responding to your letter dated April 9, 2015, to Andrew Persinko, former Deputy Director of the Division of Decommissioning, Uranium Recovery, and Waste Programs, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML16035A502), which requested the U.S. Nuclear Regulatory Commission's (NRC) staff participation on the technical design review team for the construction of a repository for Northeast Church Rock (NECR) mine waste on the United Nuclear Corporation (UNC) Mill Site. This letter also is a follow up made by the NRC during a teleconference between the NRC and the U.S. Environmental Protection Agency (EPA) on January 20, 2016. The construction of this repository would require an amendment to UNC's Source Material License, SUA-1475. The NRC agreed to provide the EPA with an overview of the NRC staff's roles and requirements as a member of the technical design review team.

The NRC staff can assist the EPA in review of information related to the proposal that may impact the future amendment to UNC's source materials license:

- By identifying regulatory requirements, guidance documents, accepted industry standards, and past licensing examples.
- By addressing specific questions regarding possible future applications and identifying apparent weaknesses that are in conflict with NRC regulations, or would require additional information. Any reviews of this nature do not imply acceptability or approval of final application.
- As intergovernmental consultation; however, the NRC cannot participate in a process by which that consultation is provided to a licensee for choosing between multiple acceptable designs or applications.
- By attending meetings; however, any comments, verbally or in writing, provided by these staff members during these meetings are not binding on the NRC.

- By participating in non-NRC sponsored meetings at which a licensee or applicant is present when the discussion is limited to generic topics such as those described in the first bullet above and process issues, e.g., schedule questions.

The NRC staff will follow its existing procedures and practices for public participation in all technical design review team meetings in which the NRC staff participates. Thus, the NRC staff's participation will be contingent upon the following: (1) discussions related to NRC licensing requirements be made public by the NRC, through teleconferences or in person, when information is exchanged that has a direct, substantive connection with the licensing action related to disposal of non-byproduct material at the Mill site, because a regulatory decision or action will be required by the NRC in the future; (2) the public be invited to observe meetings described in (1) and have the opportunity to communicate with the NRC staff and the technical design team after the business portion of the meeting; and (3) the NRC will notice the meeting described in (1) and make publicly available any documents that will be discussed ten days prior to the public meeting or as soon as possible before. Participation in non-substantive discussions (e.g., status or progress updates, scheduling, or clarification of regulations, guidance, or comments made by the NRC staff that are publicly available in ADAMS) will not be limited in this way.

Consistent with NRC policy and procedure, documents received by the NRC through its participation in the technical design team will be made public in the NRC's Agencywide Documents and Access Management System (ADAMS) unless specifically prohibited by law or policy. For example, if the documents contain pre-decisional information and are purely intergovernmental, or they contain proprietary information and are accompanied by the appropriate markings and affidavits.

If requested by UNC, some of the meetings may be considered pre-application audits during which the NRC staff will evaluate the technical sufficiency of the draft licensing materials. Pre-application audits are typically performed at a location near the site and consist of three or four days of review and discussions with the licensee depending on travel requirements. At the end of each day, the NRC staff discusses concerns and deficiencies identified during the review. The public may attend any portion of the audit, but the licensee is not required to allow the public to review materials provided by the licensee. The pre-application audit process includes the following:

- The NRC reviews the application in a public forum.
- The NRC publicly announces the audit and provides the public an opportunity to observe and comment. The applicant is not required to respond to the public comments, but may do so.
- The NRC generally reviews a nearly complete application or nearly complete portions of the application and provides guidance on improving the application to address regulatory requirements and weaknesses in the proposal.
- Conducting a pre-licensing audit does not guarantee the acceptance or approval of the final application.

C. Tenley

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With your agreement on these limitations to our interactions, my staff will continue to coordinate with your staff during this design review process. Please contact me or ask your staff to contact James Smith at 301-415-6103 or via e-mail at James.Smith@nrc.gov if you have any questions or concerns.

Sincerely,



Andrea Kock, Deputy Director
Division of Decommissioning, Uranium Recovery,
and Waste Programs
Office of Nuclear Material Safety
and Safeguards

cc: S. Jacobs, EPA
J. Brookes, EPA
C. Wetmore, EPA
R. Blickwedel, GE
A. Kleinhart, DOE
D. Barr, DOE